

REMARKS

Favorable and prompt allowance of the pending claims in the application is respectfully requested on the basis of the following particulars.

1. In the claims

The claims are amended as shown in the "Amendment to the Claims." Throughout the remaining independent claims, the "strip" is now defined as being stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use. Support for this amendment is found in the specification at paragraphs [00013], [00036] and [00053].

Minor corrections are made to dependent claims in view of the singular recitation of the primary tacking arrangement, as discussed in the reply filed December 5, 2006.

The previously withdrawn claims are cancelled, and other claims are cancelled herein in order to expedite the prosecution of this application.

It is submitted that there is clear support in the originally-filed specification for the amendment to the claims, and that the claims comply with 35 U.S.C. § 112. Entry of the amendment to the claims is respectfully requested in the next Office communication.

2. Rejection of claims 6-9, 11-27, 29, 40-42, 44 and 46-47 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,106,492 (*Darcey*) in view of U.S. patent 5,755,678 (*Parker*) and U.S. patent 6,042,557 (*Ferguson*)

Reconsideration of this rejection is respectfully requested in view of the amendment to independent claims 6, 25 and 40. The remaining claims cited in this rejection are dependent from one of such independent claims.

As a precursor, it should be understood that the "primary tacking arrangement" of the pending claims is intended to connote an arrangement that

temporarily allows the physician or technician to position the splint or support on anatomy. The primary tacking arrangement is neither intended to maintain the splint or support on the anatomy for a considerably amount of time, nor is it provided to resist movement of the anatomy once the splint or support is adequately positioned on the anatomy (specification at paragraphs [0003], [00013] and [00014]). Indeed, it is the secondary holding arrangement that actually is used to effectively hold the splint or support on the anatomy once the splint or support has been positioned on the anatomy.

As amended, independent claims 6, 25 and 40 to recite that the primary tacking arrangement includes a strip that is “stretchable, tearable, low profile and of insufficient strength to rigidly immobilize the splint for long-term use.”

It is acknowledged in the Office action that *Darcey* does not disclose a primary tacking arrangement that is made of a stretchable material. Further, *Ferguson* is not provided in the combination as a prior art teaching of a primary tacking arrangement that is made of a stretchable material; it is only provided to exemplify that it was known in the prior art to provide non-rectangular primary tacking arrangements with hook-type patches.

Of the prior art references cited in the combination, only *Parker* is understood to describe an elastic strap, presumably resembling a stretchable strip. However, it is pointed out that the strap in *Parker* is a “heavy elastic strap” and is more akin to the “secondary holding arrangement” required by the pending claims (see *Parker* at 11:1-9; Fig. 18, element 124).

As shown in Fig. 18 of *Parker*, the strap (124) is provided to secure the shin guard (120) onto the leg of the wearer. There is no other strap apparently used to maintain the shin guard (120) onto the leg, and, as such, there is no mention of a temporary type of strap used prior to strapping the shin guard to the leg with the heavy elastic strap (124).

It is clear from the amended claims that the “heavy elastic” strap of *Parker* is not the same as the strip of the primary tacking arrangement in the amended claims. Indeed, a heavy elastic strap is not a strip that is stretchable, tearable, low profile and of insufficient strength to rigidly immobilize a splint for long-term use.

Nowhere in *Parker* is there any mention or even a hint of using a strip constructed in the manner required by the pending claims. Further, neither *Darcey* nor *Ferguson* discuss or suggest using a primary and temporary tacking arrangement in combination with a secondary, heavier duty holding arrangement having a construction required by the pending claims.

As a result of these observations, it is submitted that one of ordinary skill in the art would not be motivated by any one of *Darcey*, *Parker* and *Ferguson*, whether considered collectively or individually, to provide a splint or support with the primary tacking arrangement required by the amended independent claims.

Accordingly, it is submitted that the combination of *Darcey*, *Parker* and *Ferguson* does not render the pending claims obvious. Withdrawal of the rejection of these claims is therefore requested.

3. Rejection of claims 10, 28, 43 and 45 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 6,106,492 (*Darcey*) in view of U.S. patents 5,755,678 (*Parker*) and 6,042,557 (*Ferguson*) and further in view of U.S. patent 6,139,513 (*Grim*)

Reconsideration of this rejection is respectfully requested in view of the foregoing observations in connection with section (2) of these remarks, and because *Grim* does not make up for the aforementioned shortcomings of the combination of *Darcey*, *Parker* and *Ferguson*.

Claims 10, 28, 43 and 45 depend from one of the amended independent claims 6, 25 and 40.

Particularly, *Grim* is only offered in this combination as a teaching of the prior art regarding an elongated blank with hardenable material. *Grim* does not describe any form of primary tacking arrangements that are required by the pending claims. As such, the addition of *Grim* to the combination of *Darcey*, *Parker* and *Ferguson* does not render the independent claims obvious.

Accordingly, withdrawal of this rejection is respectfully requested.

4. Conclusion

As a result of the amendment to the claims, and further in view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that every pending claim in the present application be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicants' attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,

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